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Attorneys for Defendant and Counterclaim  
Plaintiff FIREEYE, INC.

[SEE SIGNATURE PAGE FOR COMPLETE  
LIST OF COUNSEL]

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

FORTINET, INC.,

Plaintiff,

v.

FIREEYE, INC.,

Defendant.

FIREEYE, INC.,

Counterclaim Plaintiff,

v.

FORTINET, INC.,

Counterclaim Defendant.

Case No. 3:13-cv-02496-HSG

**JOINT STIPULATION AND ~~PROPOSED~~  
ORDER FOR DISMISSAL OF STATE  
LAW CLAIMS WITH PREJUDICE AND  
OF PATENT CLAIMS WITHOUT  
PREJUDICE**

Judge: Hon. Haywood S. Gilliam, Jr.  
Courtroom: 15, 18<sup>th</sup> Floor  
Action Filed: June 5, 2013

1 WHEREAS, on September 21, 2015, Plaintiff and Counterclaim Defendant Fortinet, Inc.  
2 (“Fortinet”), and Defendant and Counterclaim Plaintiff FireEye, Inc. (“FireEye”) entered into a  
3 settlement agreement (“Settlement Agreement”) addressing all issues and controversies in the  
4 above-entitled action, pursuant to FED. R. CIV. P. 41(a);

5 THEREFORE, IT IS STIPULATED AND AGREED between the parties, through their  
6 respective counsel of record herein, that:

- 7 1) Fortinet’s state law claims (Counts VII-VIII of Fortinet’s Second Amended Complaint,  
8 D.I. 71) shall be dismissed **with** prejudice;
- 9 2) Fortinet’s patent infringement claims (Counts I-VI of Fortinet’s Second Amended  
10 Complaint, D.I. 71), and FireEye’s corresponding counterclaims for declaratory relief  
11 of non-infringement, invalidity and unenforceability (Counts IV-V of D.I. 85) shall be  
12 dismissed **without** prejudice;
- 13 3) FireEye’s patent infringement counterclaims (Counts I-III of D.I. 85), and Fortinet’s  
14 corresponding counterclaims for declaratory judgment of non-infringement and  
15 invalidity (First through Sixth Counterclaims of D.I. 88) shall be dismissed **without**  
16 prejudice;
- 17 4) The parties shall each bear their own costs, expenses, and attorneys’ fees;
- 18 5) All signatories listed, and on whose behalf the filing is submitted, concur in the filing’s  
19 content and have authorized the filing.

20 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

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1 Dated: September 21, 2015

Respectfully submitted,

2  
3 By: /s/ Shane Brun

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21 Attorneys for Defendant and Counterclaim  
22 Plaintiff FIREEYE, INC.

1 Dated: September 21, 2015

By: /s/ John M. Neukom

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Defendant FORTINET, INC.

1 **PURSUANT TO STIPULATION, IT IS ORDERED** that Plaintiff Fortinet, Inc.'s state law  
2 claims are dismissed **with** prejudice, and that the parties' respective patent infringement claims  
3 and corresponding counterclaims for invalidity, unenforceability and non-infringement are  
4 dismissed **without** prejudice.

5  
6 Dated: September 22, 2015

  
The Honorable Haywood S. Gilliam, Jr.  
United States District Court Judge

**LOCAL RULE 5-1(i)(3) ATTESTATION**

I, Shane Brun, am the ECF user whose ID and Password are being used to file this  
JOINT STIPULATION AND [PROPOSED] ORDER FOR DISMISSAL OF STATE LAW  
CLAIMS WITH PREJUDICE AND OF PATENT CLAIMS WITHOUT PREJUDICE . In  
compliance with Civil Local Rule 5-1(i)(3), I hereby attest that John M. Neukom counsel for  
Plaintiff, Fortinet, Inc., has concurred in its filing.

Dated: September 21, 2015

/s/ Shane Brun  
Shane Brun

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on September 21, 2015, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system. Any counsel of record who have not consented to electronic service through the Court's CM/ECF system will be served by electronic mail, first class mail, facsimile and/or overnight delivery.

/s/ Shane Brun

Shane Brun